



ZARIN &
STEINMETZ

February 26, 2015

Via Electronic and Hand Delivery

Hon. Brian Smith, Mayor
and Members of the Board of Trustees
Village of Irvington
85 Main Street
Irvington, New York 10533

***Re: Petition of DeNardo Capital Corp.
Clarifications to MF District Regulations***

Dear Mayor Smith and Village Trustees:

As you know, this firm represents DeNardo Capital Corporation ("Petitioner"), which is now the owner of the property located at 30 South Broadway, commonly referred to as the Foundation for Economic Education ("FEE") property. Petitioner believes that the FEE property, along with the adjacent lot at 40 South Broadway, present a viable and important opportunity for residential redevelopment with townhomes, including a significant affordable housing component in accordance with the Westchester County AFFH Marketing Plan. Petitioner has identified several unclear provisions in the Village's Multifamily ("MF") District regulations which appear to impede this type of redevelopment anywhere in the MF District, including the FEE property. Prior to finalizing and submitting for approval any development plan, Petitioner is asking that the Village Board review and clarify certain aspects of the MF District regulations relating to the layout, density and form of ownership of multifamily townhouse developments in the District. We are submitting the enclosed Petition for a zoning text amendment to initiate such review.

By way of background, the MF District currently requires that all buildings containing "Two-family dwellings" and/or "three-or-more family dwellings" be held in not "more than one ownership at any one time throughout the life of the building." See Village Zoning Code §§ 224-17(B) & (C). This language, if strictly construed, would appear to prohibit an attached fee-simple/HOA multifamily townhouse development where each dwelling unit is located on a subdivided lot held in separate ownership. Similarly, the existing MF District regulations are unclear as to how area setbacks, such as yard requirements and coverage limits, are applied to a property containing a series of attached townhouse units located on separate lots.

David J. Cooper
Jody T. Cross ●
Marsha Rubin Goldstein
Jeremy E. Kozin
Helen Collier Mauch ▲
Daniel M. Richmond
Brad K. Schwartz
Lisa F. Smith ●
David S. Steinmetz ■
Krista E. Yacovone
Michael D. Zarin

■ Also admitted in D.C.
● Also admitted in CT
▲ Also admitted in NJ

In addition, the existing MF District regulations contain certain impediments to pursuing marketable multifamily developments. The Zoning Code limits the building coverage of all multifamily developments in the MF District to 10%. The Zoning Code also requires that all buildings (whether principal or accessory) be separated by no less than 60 feet. Designing a multifamily development to comply with these requirements requires either a tall, monolithic apartment building, or few townhouses spread out over a property. Neither option is consistent with modern trends in attractive multifamily housing design, or efforts to allow sufficient density to encourage significant affordable housing components in new and/or redevelopment. Nor is it consistent with the existing pattern of development in the Village, particularly in the MF District. A survey conducted by Petitioner's development team based on approximate takeoffs from aerial photography of the 7 multifamily developments in the MF District establishes that none of the existing communities in the MF District appear to comply with these regulations. (See Exhibit "A" to the Petition, dated February 26, 2015, submitted herewith). At least 3 of these communities, in fact, contain building coverage in excess of 30%.

In order to address these issues, Petitioner proposes that your Board amend the MF District regulations by: (i) clarifying that an "attached multifamily townhouse development" is a permitted use; (ii) clarifying that the area regulations, including set back, buffer and building coverage requirements, are applied to the entire property containing the townhouse development, rather than each individual townhouse lot; (iii) increasing the maximum building coverage in the District from 10% to 30%, and reducing the minimum building separation from 60 feet to 15 feet; and (iv) confirming that the density of any multifamily townhouse development is determined using the Village's Resource Protection Ordinance. These proposals are reflected in the draft zoning text amendment annexed to the Petition as Exhibit "B."

We submit that adopting the zoning text amendment would be consistent with the Village's Comprehensive Plan, and subsequent housing initiatives. The proposed modifications would facilitate the Village's goal announced in the 2003 Comprehensive Plan to update existing zoning provisions so that new housing "mesh[es] with the established settlement character" of the Village. (See Comprehensive Plan, at 27). It would also "encourage below-market-rate-housing by, for example, increasing allowable density within specific parameters for [such] housing." (See *id.*, at 9). Indeed, Petitioner initially estimates that the added flexibility associated with increasing building coverage and decreasing building separation, while maintaining site capacity in order to control density, would allow it to include as many as 7 affordable units in a townhouse development at 30 and 40 South Broadway.

Petitioner, therefore, respectfully requests that this matter be placed on your Board's March 2, 2015 regular meeting agenda for consideration. We ask that on March 2nd your Board formally accept the enclosed Petition, and refer the matter to the Village Planning Board and Westchester County for review and reports in accordance with Section 224-99 of the Zoning Code. In addition, we request that your Board declare itself Lead Agency under the New York State Environmental Quality Review Act ("SEQRA"). As set forth in more detail in the Petition, and as we shall discuss with your Board, we submit that your Board's review of the

Petition is limited to the potential impacts of the legislative act, rather than a comprehensive site-specific analysis of any development subsequently proposed. Such site-specific review would occur, if ever, once the MF District regulations were clarified and a property owner submits an application for site plan approval to the Planning Board.


In furtherance of this request, enclosed please find the following materials:

- Verified Petition for a Zoning Text Amendment, dated February 26, 2015 ("Petition");
- Proposed Zoning Text Amendment, dated February 26, 2015 (annexed to the Petition as Exhibit "B"); and
- Short Environmental Assessment Form Part I, prepared by John Meyer Consulting, PC, dated February 25, 2015 ("EAF").

We look forward to appearing before you on March 2nd, and commencing the formal review process. If you have any questions or require any further information before this meeting, please do not hesitate to contact us.

Respectfully Submitted,

ZARIN & STEINMETZ

By: 

David S. Steinmetz
David J. Cooper

Encs.

cc:

DeNardo Capital Corporation
John Meyer Consulting, PC
Marianne Stecich, Esq.
Larry Schopfer